

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MITCHELL LABREC,

Plaintiff,

v.

ADAM SENSIBAUGH, et al.

Defendants.

ORDER

Case No. 18-cv795-wmc
Appeal no. 22-2627

On October 13, 2022, the court entered an order assessing plaintiff an initial partial appeal payment of the \$505 filing fee for this appeal, which plaintiff has paid. Plaintiff has been making monthly installment payments since then. Now plaintiff has filed a motion for an order directing prison officials to pay the remainder of the appellate filing fee from plaintiff's release account.

Under the Prison Litigation Reform Act, an inmate who files an appeal in federal court under the *in forma pauperis* statute, 28 U.S.C. § 1915, must pay the \$505 appellate filing fee, first by making an initial partial payment under § 1915(b)(1), and then by paying the remainder of the filing fee in monthly installments under § 1915(b)(2). If a prisoner does not have sufficient funds in a regular inmate account to make the initial partial payment, then the prisoner may withdraw funds from a release account for that purpose. However, prison officials will draw funds first from the prisoner's regular account, and then, if any portion of the initial partial payment remains, from the prisoner's release account. *Carter v. Bennett*, 399 F. Supp. 2d 936 (W.D. Wis. 2005). Federal courts have no authority to order state officials to allow a prisoner to withdraw funds from a release account for any other purpose. *Id.* Accordingly,

plaintiff's motion to pay the remainder of the appellate filing fee from the release account is denied.

ORDER

IT IS ORDERED that plaintiff Mitchell LaBrec's motion for an order directing prison officials to pay the remainder of the appellate filing fee for this appeal from plaintiff's release account is DENIED.

Entered this 8th day of January, 2023.

BY THE COURT:

/s/
ANDREW R. WISEMAN
United States Magistrate Judge